

Amendment No. 1 to HB2924

Lynn
Signature of Sponsor

AMEND Senate Bill No. 2932

House Bill No. 2924*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 4-3-1016(d), is amended by deleting the language "June 30, 2011 and June 30, 2014," and substituting instead the language "June 30, 2011, June 30, 2014, June 30, 2020, and June 30, 2021,".

SECTION 2. Tennessee Code Annotated, Section 4-3-1016(e), is amended by deleting the language "and June 30, 2011" and substituting instead the language "June 30, 2011, June 30, 2020, and June 30, 2021".

SECTION 3. Tennessee Code Annotated, Section 4-3-1016(i), is amended by deleting the language "In the fiscal year ending June 30, 2018" and substituting instead the language "In the fiscal years ending June 30, 2018, June 30, 2020, and June 30, 2021".

SECTION 4. Tennessee Code Annotated, Section 4-3-1016, is further amended by adding the following new subsection (j):

(j) In the fiscal years ending June 30, 2020, and June 30, 2021, in addition to the transfers authorized in subsection (d), transfers are authorized from the following additional funds, reserve accounts, and programs:

(1) Attorney general and reporter, litigation settlement funds reserve,
except as otherwise provided by law;

(2) District attorneys general conference, district attorneys expunction
fund, created or referenced in title 40, chapter 32, part 1;

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(3) District public defenders conference, public defenders expunction fund, created or referenced in title 40, chapter 32, part 1;

(4) Tennessee public utility commission, underground damage prevention fund, created or referenced in title 65, chapter 31, part 1;

(5) Tennessee arts commission, reserve for new specialty earmarked license plates, created or referenced in title 55, chapter 4, part 3;

(6) Department of finance and administration, office of inspector general reserve, created or referenced in title 71, chapter 5, part 25;

(7) Department of finance and administration, victim notification fund, created or referenced in title 67, chapter 4, part 6;

(8) Department of finance and administration, horse trailer specialty license plate reserve, created or referenced in title 55, chapter 4, part 3;

(9) Bureau of TennCare, Cover Tennessee litigation settlement reserve, except as otherwise provided by law;

(10) Department of agriculture, animal population specialty license plate reserve, created or referenced in title 55, chapter 4, part 2;

(11) Department of agriculture, agricultural specialty earmarked license plate reserve, created or referenced in title 55, chapter 4, part 2;

(12) Department of agriculture, beef promotion board reserve, created or referenced in title 43, chapter 29, part 1;

(13) Department of agriculture, cotton growers' organization reserve, created or referenced in title 43, chapter 6, part 4;

(14) Department of environment and conservation, state parks specialty license plate reserve, created or referenced in title 55, chapter 4, part 2;

(15) Department of environment and conservation, state parks Ocoee River recreation and economic development fund, created or referenced in title 11, chapter 8, part 1;

(16) Department of environment and conservation, Tennessee historical commission, Tennessee Civil War or War Between the States site preservation fund, created or referenced in chapter 11, part 1 of this title;

(17) Department of environment and conservation, Tennessee historical commission, historic property land acquisition fund, created or referenced in chapter 11, part 1 of this title;

(18) Department of environment and conservation, tire environmental fund, created or referenced in title 68, chapter 211, part 3;

(19) Department of environment and conservation, state parks birds of prey specialty license plate reserve, created or referenced in title 55, chapter 4, part 2;

(20) Tennessee wildlife resources agency, wildlife resources fund, created or referenced in title 70, chapter 1, part 4;

(21) Tennessee wildlife resources agency, boating safety act reserve, created or referenced in title 69, chapter 9, part 2;

(22) Department of education, energy efficient schools initiative reserve, created or referenced in title 49, chapter 17, part 1;

(23) Tennessee higher education commission, postsecondary licensure fee reserve, created or referenced in title 49, chapter 7, part 20;

(24) Attorney general and reporter, consumer affairs division reserve, created or referenced in title 40, chapter 33, part 2;

(25) Department of commerce and insurance, reduced cigarette ignition propensity and firefighter protection act enforcement fund, created or referenced in title 68, chapter 102, part 5;

(26) Tennessee corrections institute, local correctional officer training fund, created or referenced in title 41, chapter 7, part 1;

(27) Department of commerce and insurance, cemetery consumer protection account reserve, created or referenced in title 46, chapter 1, part 1;

(28) Department of commerce and insurance, pre-need funeral consumer protection account reserve, created or referenced in title 62, chapter 5, part 4;

(29) Department of commerce and insurance, securities industry education and enforcement fees, created or referenced in title 48, chapter 1, part 1;

(30) Department of commerce and insurance, insurance industry education and enforcement fees, created or referenced in title 56, chapter 53, part 1;

(31) Department of commerce and insurance, closed estate fund, created or referenced in title 56, chapter 9, part 3;

(32) Department of military, station commander's upkeep and maintenance fund, created or referenced in title 58, chapter 1, part 5;

(33) Department of health, St. Jude Children's Research Hospital specialty license plate reserve, created or referenced in title 55, chapter 4, part 2;

(34) Department of safety, electronic citation fee reserve, created or referenced in title 55, chapter 10, part 2;

(35) Department of environment and conservation, underground storage tank settlement funds, except as otherwise provided by law;

(36) Department of environment and conservation, solid waste settlement funds, except as otherwise provided by law;

(37) Department of environment and conservation, superfund settlement funds, except as otherwise provided by law;

(38) Department of environment and conservation, leaking underground storage tank settlement funds, except as otherwise provided by law;

(39) Court system, access to justice program reserve, created or referenced in Supreme Court Rule 50 and title 16, chapter 1, part 1;

(40) Court system, board of professional responsibility reserve, created or referenced in Supreme Court Rule 9 and title 16, chapter 1, part 1;

(41) Court system, Tennessee lawyers assistance program reserve, created or referenced in Supreme Court Rule 33 and title 16, chapter 1, part 1;

(42) Court system, commission on continuing legal education program reserve, created or referenced in Supreme Court Rule 21 and title 16, chapter 1, part 1;

(43) Court system, judicial commissioner continuing education account reserve, created or referenced in title 67, chapter 4, part 6;

(44) District attorneys general conference, fraud and economic crimes reserve, created or referenced in title 40, chapter 3, part 2;

(45) State treasurer, state pooled investment fund administrative reserve, created or referenced in title 9, chapter 4, part 6;

(46) State treasurer, educator liability fund, created or referenced in title 9, chapter 8, part 2;

(47) Department of correction, TDOC confiscated cash fund, created, or referenced in title 4, chapter 6, part 1;

(48) Public defenders conference, indigent defense local litigation tax reserve, created or referenced in title 40, chapter 14, part 2;

(49) Secretary of state, fantasy sports fund, created or referenced in title 47, chapter 18, part 16;

(50) State treasurer, financial literacy program reserve, created or referenced in title 49, chapter 6, part 17;

(51) State treasurer, electronic monitoring indigency fund, created or referenced in title 55, chapter 10, part 4;

(52) Department of finance and administration, electronic monitoring indigency fund, created or referenced in title 55, chapter 10, part 4;

(53) Department of finance and administration, child abuse fund, created or referenced in title 39, chapter 13, part 5;

(54) Department of finance and administration, anti-human trafficking fund, created or referenced in title 39, chapter 13, part 3;

(55) TennCare, maintenance of coverage trust fund, created or referenced in title 71, chapter 5, part 1;

(56) TennCare, nursing home assessment trust fund, created or referenced in title 71, chapter 5, part 10;

(57) Department of environment and conservation, settlement funds from *Lenoir v. Porters Creek Watershed District*, 586 F.2d 1081 (1978), except as otherwise provided by law;

(58) Department of environment and conservation, state lands acquisition compensation fund, created or referenced in title 67, chapter 4, part 4;

(59) Department of environment and conservation, settlement funds from *Tennessee v. Roane Holdings, Ltd.*, 835 F.Supp.2d 527 (2011), except as otherwise provided by law;

(60) Department of correction, Tennessee Sexual Offender and Violent Sexual Offender Registration, Verification and Tracking Act of 2004 reserve, created or referenced in title 40, chapter 39, part 2;

(61) Department of commerce and insurance, Professional Employee Organization Act reserve, created or referenced in title 62, chapter 43, part 1;

(62) Department of labor and workforce development, employee misclassification education and enforcement fund, created or referenced in title 50, chapter 6, part 9;

(63) Department of health, trauma system fund, created or referenced in title 68, chapter 59, part 1; and

(64) Department of revenue, uninsured motorist identification restricted fund, created or referenced in title 55, chapter 12, part 2.

SECTION 5. Tennessee Code Annotated, Title 67, Chapter 6, Part 5, is amended by adding the following new sections:

67-6-543.

(a) Dealers with a physical presence in this state shall register with the department to collect and remit tax in accordance with this chapter.

(b) Dealers with no physical presence in this state shall register with the department to collect and remit tax in accordance with this chapter if the dealer engages in the regular or systematic solicitation of consumers in this state through any means and made sales that exceeded one hundred thousand dollars (\$100,000) to consumers in this state during the previous twelve-month period. Such dealers shall begin to collect and remit the tax by the first day of the third calendar month following the month in which

this threshold was met; provided, however, that this subsection (b) does not require a dealer to collect the tax for sales made before October 1, 2020.

67-6-544.

The general assembly finds that the sales threshold standard required by § 67-6-543(b) matches the benchmark established by South Dakota that was analyzed and found to support it being upheld as constitutional by the supreme court of the United States in *South Dakota v. Wayfair*, 138 S.Ct. 2080 (2018).

67-6-545.

Section 67-6-543 does not change the substantial nexus criteria for determining when a person is required to pay the business tax under § 67-4-717, excise tax under § 67-4-2007, or franchise tax under § 67-4-2105.

SECTION 6. Tennessee Code Annotated, Section 67-6-501(a), is amended by deleting the language "Every dealer making sales" and substituting instead the language "Except as otherwise provided in § 67-6-543(b), every dealer making sales".

SECTION 7. Tennessee Code Annotated, Section 67-6-501(f)(1), is amended by deleting the following language:

The marketplace facilitator made or facilitated total sales to consumers in this state of five hundred thousand dollars (\$500,000) or less during the previous twelve-month period;

and substituting instead the following:

The marketplace facilitator made or facilitated total sales to consumers in this state of one hundred thousand dollars (\$100,000) or less during the previous twelve-month period;

SECTION 8. Tennessee Code Annotated, Section 67-6-509(a), is amended by deleting the language "An out-of-state person making sales in Tennessee, who cannot be required to register for sales and use tax under applicable law" and substituting instead the language "An

out-of-state person making sales in Tennessee, who is not required to register for sales and use tax under applicable law".

SECTION 9. Tennessee Code Annotated, Section 67-4-3204(c), is amended by deleting the subsection in its entirety.

SECTION 10. If any provisions of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 11. Sections 5, 6, 7, 8, and 9 shall take effect at 12:01 a.m. on October 1, 2020, the public welfare requiring it. All other sections of this act shall take effect upon becoming a law, the public welfare requiring it.